

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 11-20188

vs.

HON. GEORGE CARAM STEEH

BERNARD EDMOND,

Defendant.

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ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION  
AND GRANTING CERTIFICATE OF APPEALABILITY [ECF No. 407]

This matter comes before the Court on defendant Bernard Edmond's motion for reconsideration of the order denying his motion to vacate, set aside or correct his sentence under 28 U.S.C. § 2255 (ECF No. 401). Alternatively, defendant seeks a certificate of appealability. The issues were thoroughly briefed and argued by counsel, and the Court addressed each of defendant's arguments in its opinion and order. Because defendant raises the same arguments in his motion for reconsideration, the Court denies the motion.

In order for a certificate of appealability to issue, the applicant must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22; *Slack v. McDaniel*, 529 U.S.

473, 484 (2000) (petitioner may make such a showing by demonstrating that "reasonable jurists could debate whether . . . the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" (citation omitted)). The Court finds that reasonable jurists could debate whether the carjacking charges defendant was convicted of under a coconspirator theory of liability (*Pinkerton* conspiracy) qualify as substantive crimes of violence under the elements clause of 18 U.S.C. § 924(c)(3)(A).

The Court therefore grants defendant's request for a certificate of appealability only as to the issue of whether his carjacking convictions, charged as substantive offenses but argued, supported and instructed under a coconspirator theory of liability, qualify as crimes of violence under § 924(c)(3)(A).

Now, therefore,

IT IS HEREBY ORDERED that defendant's motion for reconsideration is DENIED.

IT IS HEREBY FURTHER ORDERED that defendant's request for a certificate of appealability is GRANTED.

Dated: October 21, 2020

s/George Caram Steeh  
GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE